



North Carolina Department of Health and Human Services
Division of Mental Health, Developmental Disabilities
and Substance Abuse Services

325 North Salisbury Street • Raleigh, North Carolina 27603 • Courier #56-20-24

James B. Hunt, Jr., Governor

John F. Baggett, Ph.D., Director

H. David Bruton, MD, Secretary

(919) 733-7011

Willie M. Section

ADMINISTRATIVE LETTER NO. 98-01

TO: Area Program Directors
Willie M. Coordinators

FROM: Marci White, Chief
Willie M. Section

DATE: July 1, 1997

RE: POLICY AND PROCEDURES FOR "PRIOR NOTICE OF DECISION"
(Section .7000, Services for Eligible Assaultive and Violent Children and
Adolescents; Rule .7016, Title 10, Chapter 14V of the North Carolina
Administrative Code)

PURPOSE

Formal Rules governing the determination of eligibility, ensuring provision of services and providing for contested case hearings for **Willie M.** class members became effective March 1, 1997. The purpose of this administrative letter is to set out the policies which require providing formal notice to the parents, guardian and advocate for a **Willie M.** client or nominee/applicant of certain actions or proposed actions. This letter also sets out the procedures to be followed by area programs and/or the Division to fulfill the policy requirements outlined in the Rules.

In the majority of cases, the Division and area programs are already providing notification to parents/guardians in informal or different form. The procedures described here seek to formalize notification procedures while also utilizing existing processes wherever possible. Also, in many cases, providing parents with copies of the various booklets developed by the Division will meet notification requirements.

DEFINITIONS (terms used in the Rules and/or this Administrative Letter)

- A. Eligible Assaultive and Violent Children (EAVC) - This term comes from NC G.S. 122C-3 (13a) and is identical to the definition of a **Willie M.** class member.
- B. Youth Behavioral Services Client (YBSC) - This term was created for the Rules and is used as a substitute for the terms "Eligible Assaultive and Violent Child" or "**Willie M.** class member."
- C. Legally Responsible Person means the term as defined in NC G.S. 122C-3 (20) - A parent guardian, a person standing *in loco parentis*, or a legal custodian other than a parent who has been granted specific authority by law or in a custody order to consent for medical care, including psychiatric treatment.
- D. Advocate or Representative - An attorney or guardian *ad Litem* (G.A.L.) pursuant to NC G.S. 7A for a **Willie M.** class member or applicant/nominee. In the event that a YBSC has a representative other than an attorney retained by the client or parent/guardian or G.A.L. appointed under NC G.S. 7A, the Division shall retain the right to challenge whether a representative is, in fact, acting on behalf of the child at the child's request.

POLICIES

Notice of decisions shall be given to a minor's legally responsible person and advocate whenever the Division, an area program or other service-providing agency *initiates or proposes to change*:

- (1) the eligibility status of a Youth Behavioral Services Client or applicant;
- (2) a client's needs assessment;
- (3) a client's T/HP; or
- (4) a client's services or placement.

Notice will also be given if a program refuses to initiate or change 1-4 above after a request by the minor's legally responsible person or advocate to do so.

PROCEDURES

Timing:

Notice of an eligibility determination decision and information about the program and appeal rights for the legally responsible person shall be provided by the Division when the decision is made by the Division. The minor's legally responsible person or advocate may appeal the eligibility decision from this point in time.

The Division has prepared a booklet about **Willie M.** Services for our clients. When a child is determined initially eligible (certified) for **Willie M.** services, the area program, most probably the case manager, is to give the child a copy of this booklet ("To **Willie M.** Clients: What Is The **Willie M.** Program?"). The Division will send to the child's legally responsible person, along with the official notification letter, a copy of the booklets for them ("To Parents and Legal Guardians: What is the **Willie M.** Program?" and "How are Disagreements Resolved in the **Willie M.** Program?")

Notice of other decisions shall be provided in a reasonable time prior to the intended action, but not later than ten days before the effective date of the proposed action.

Means of Notice:

Notice of a decision shall be in writing in language understandable to the general public, and provided in the native language or other mode of communication of the legally responsible person or advocate unless it is clearly not feasible to do so. The area program, contract agency or Division shall document both that the notice has been sent to and efforts to ensure receipt by the legally responsible person or advocate.

The characteristics of **Willie M.** clients often necessitate prompt initiation or changes in services in response to unanticipated needs or behaviors or in order to ensure the ongoing safety of the clients or community. In these situations, the area program or contract agency shall take the steps necessary to ensure the safety of the client or community, including initiating, changing or stopping services. The area program or contract agency shall then immediately provide notice to the legally responsible person or advocate of the actions taken and the reasons for the actions.

The **Willie M.** Section is providing an array of materials designed to satisfy requirements for notices of decisions. An initial mailing of booklets and brochures¹ has gone out to all area programs/surrogates. More mailings will follow. The **Willie M.** Section has also arranged for the parent materials and notices to be translated into Spanish, printed in large type and recorded on cassette tapes. Please contact the **Willie M.** Section for any of these special materials you may need or extra copies of the other booklets or brochures.

Enclosed materials include letters² and forms³ for notices the Division and area programs are required to send. **Appendix I** is a chart which describes all the materials

¹ Appendix II

² Appendix III

³ Appendix IV

and states who is responsible for sending them and when. Some notices to be provided by area programs are incorporated into the T/HP process. In only two situations have new forms been developed for area programs to provide formal notification to parents/guardians. The Division will be sending out the other new letters to parents/guardians in order to satisfy these new requirements.

The new letters and forms attached are samples only. Copy-ready materials will follow.

Content:

Notice of a decision, at a minimum, shall include the name of the client or applicant, the action requested, the intended action or refusal to act, and the effective date of the proposed action or refusal to act.

NOTICE REQUIREMENTS: (For area programs, the only situations requiring notice which were not previously required, are A.(2), D and E below.)

- A. Change in eligibility status -
 - (1) Of nominee/applicant - Division responsibility (See **Appendix III**)
 - (2) After certification - Area program responsibility (See **Appendix IV** for form)
- B. Needs Assessment - Parent/guardian signature on existing consent for conducting evaluation(s) meets this notice requirement.
- C. Initiate or Change T/HP - Area program responsibility through the T/HP process. (See **Appendix IV** for T/HP signature Page and Continuation Page).
Parent/guardian signature on T/HP constitutes agreement with plan or changes, so parents may need time to consider the changes before they are asked to sign the document.
- D. Change in client's services or placement (except to DYS) - Same as above because changes to a new service or change in a service outside the ranges specified in the T/HP require an addenda to the T/HP.
- E. The area program refuses to initiate or change the needs assessment, plan or services after being requested to do so by the parent - Area program responsibility to provide parent with response (See **Appendix IV**)

The explanation in notices must address the items below, which are taken directly from the Rules:

- (1) explain why the agency proposes to act or refuses to act;

- (2) describe the evaluation or assessment procedures, tests, records or reports that the agency uses as the basis for the proposed action or refusal;
- (3) describe any other factors relevant to the agency's decision;
- (4) describe any options that the agency considered, and why those options were rejected, if applicable; and
- (5) provide a full explanation of the client's procedural safeguards with respect to the agency's decision, including:
 - a. the right to voluntary mediation, how to request it, and to whom to make the request;
 - b. the right to an impartial administrative review under contested case hearing procedures, the grounds specified in G.S. 122C-195 for obtaining administrative review of proposed decisions, the procedure for initiating administrative review, and the time limits in which to initiate administrative review;
 - c. the right to review the decision and the opportunity to examine records related to the decision;
 - d. the right to seek an independent evaluation;
 - e. the right to be represented by counsel; and
 - f. in the case of a determination of noneligibility, the right to submit additional information and request an administrative re-review of eligibility before proceeding with a contested case hearing.

This Administrative letter and the policy and procedures it outlines is effective July 1, 1997.

cc:

Willie M. Interagency Committee
Willie M. Contested Case Hearing Review Officers
DHR **Willie M.** Regional Service Managers
Bill Hussey, DPI **Willie M.** Chief Education Consultant
DPI **Willie M.** Education Consultants
Mediation Network of North Carolina (22)
Judge Julian Mann, Office of Administrative Hearings (10)

PARENT⁴ NOTIFICATION UNDER NEW **Willie M. RULES**

WHEN	WHAT	RESPONSIBLE PARTY
------	------	-------------------

ELIGIBILITY CHANGES:

When Section receives nomination	Letter A - acknowledgment Eligibility brochure	Section
30 days after Section determines nomination is complete & no decision	Letter B - timeline extension	Section
<i>Pre-certification</i> eligibility status change (military, adult corrections, state residence)	Letter C - status change Eligibility brochure	Section
Eligibility decision NO	Letter D with reasons Eligibility disagreement brochure	Section
YES	Letter E Program booklet (Parent) Contested Case booklet	Section
	Program booklet (child)	Area Program (new requirement)
Extension of services decision	Letter F with reasons	Section
<i>Post-certification</i> status change (military, adult corrections, state residence)	Letter G - description	Area Program (new requirement)

NEEDS ASSESSMENT:

Before formal diagnostic testing	Existing written consent form signed by the parents. Parents receive copy; form states tests to be conducted.	Area Program
----------------------------------	---	--------------

CHANGES IN T/HP, SERVICES (new requirement):

T/HP – Initial – Changes – Transition	T/HP Continuation Page and Signature Page (revised) with parent signature	Area Program
Services – Initiating – Changing (defined as a change from one Service Definition to another)	T/HP Continuation Page and Signature Page (revised) with parent signature	Area Program
Changing Placement (other than DYS)	T/HP Continuation Page and Signature Page (revised) with parent signature	Area Program

RESPONSE TO PARENT REQUEST FOR NEEDS ASSESSMENT OR CHANGE IN T/HP, SERVICES (new requirement):

Refusal	Letter H	Area Program
---------	----------	--------------

⁴ Legally Responsible Person

LISTING OF BROCHURES AND BOOKLETS PROVIDED BY THE
WILLIE M. SECTION AND DISTRIBUTED TO AREA PROGRAMS IN
JUNE, 1997:

BROCHURES.

“HOW DOES A CHILD BECOME ELIGIBLE FOR **WILLIE M.** SERVICES?”

“HOW ARE ELIGIBILITY DECISION DISAGREEMENTS RESOLVED IN **WILLIE M.**
SERVICES?”

BOOKLETS:

“TO **WILLIE M.** CLIENTS: WHAT IS THE **WILLIE M.** PROGRAM?”

“TO PARENTS AND LEGAL GUARDIANS: WHAT IS THE **WILLIE M.** PROGRAM?”

“HOW ARE DISAGREEMENTS RESOLVED IN THE **WILLIE M.** PROGRAM?”

NOTICE LETTERS PROVIDED AND DISTRIBUTED BY THE
WILLIE M. SECTION⁵.

LETTER A - Acknowledgment of receipt of application.

LETTER B - Eligibility process taking more than 30 days from date of complete application

LETTER C - Pre-certification eligibility change

LETTER D - Eligibility decision is no

LETTER E - Eligibility decision is yes

LETTER F - Decision regarding request for service extension

⁵ Area programs **do not** distribute these letters